THE HONOURABLE SRI JUSTICE N.V.RAMANA

Writ Petition No.26563 of 1999

Dated: 23-12-2005

Between:

N.Satyanarayana Murthy,

S/o Satyanarayana, working as Conductor,

Sree V.V.S.S. Devasthanam,

Annavaram, E.G.District.

…..PETITIONER

AND

The Commissioner, endowments

Department, Government of A.P.

Hyderabad and another.

….RESPONDENTS

THE HONOURABLE SRI JUSTICE

N.V.RAMANA

W.P.No.26563 OF 1999

ORDER:

This writ petition questions the action of the respondents in not paying the petitioner the scale attached to the post of Conductor on par with other conductors while paying the same to the juniors of the petitioner, and consequentially seeks a direction to the respondents to pay to the petitioner the scale attached to the post of Conductor under the revised scale along with arrears from the date of his absorption.

In 1987, the petitioner was engaged as contract labour under the 2nd respondent. On 4-1-1991, he was shifted to the post of Conductor on N.M.R basis. Based on the letter dated

4-10-1993 of the 1st respondent, the 2nd respondent, regularized the services of the petitioner as Conductor in the Last Grade Service with pay scale of Rs. 1375-2375, and since then he is continuing as such.

It is the case of the petitioner that the 2nd respondent is denying him the scale attached to the post of Conductor on the pretext that he was regularized in the Last Grade Service. He states that persons whose services were regularized much subsequent to the regularization of his services, are being paid higher scale, which is discriminatory. He states that though pursuant to his representation dated 3-11-1998 Trust Board on 26-11-1998 passed a resolution to pay the scale attached to the post of Conductor, the respondents are not paying the same, which is illegal and arbitrary. He therefore prays for appropriate directions.

The 2nd respondent-Special Grade Deputy Collector and Executive Officer, Sri Veera Venkata Satyanarayana Swamy Devasthanam, Annavaram filed counter affidavit. The learned Standing Counsel appearing on his behalf, admitted that the petitioner's service was regularized in the Last Grade Service along with others during 1993. He also admitted that resolution was passed on 26-11-1998 to extend the scale attached to the post of Conductor to the petitioner. As there are no vacancies available, they are not in a position to consider the case of the petitioner. He submitted that as per G.O. Ms. No.888, Revenue, Endowment-I, dated 8-12-2000, the Commissioner alone is competent to fix the cadre strength for the Devasthanam. The establishment charges of the Devasthanam are over and above 40% over the assessable income, and whereas as per Section 57 of Act No. 30/1987, the establishment shall not cross 30%, and for this reason also, they are not in a position to consider the case of the petitioner.

Heard the learned counsel for the petitioner and perused the material available on record. Learned Standing Counsel for the Devasthanam and the learned Government Pleader for Endowments for the official 1st respondent are called absent.

The writ petition is of the year 1999. The matter is coming up since August, 2005. The matter underwent several adjournments, but there is no representation on behalf of the Devasthanam. The Devasthanam did not dispute the fact that the services of the petitioner were regularized, and that pursuant to the representation of the petitioner, the Trust Board of the Devasthanm, has also passed a resolution on 26-11-1998 entitling the petitioner the scale of pay attached to the post of Conductor. The said resolution reads as under:

> "On the application dated 3-11-1998 submitted by Sri Nerella Satyanarayana Murthy, Conductor it is submitted that Sri Nerella Satyanarayana Murthy was regularized as Conductor from NMR services in Last Grade Scale of Rs.1375-2375. In 1995 four (4) N.M.Rs Conductors were regularized in the pay scale of Last Grade as per the proceedings of the Commissioner. But the earlier Executive Officer had issued orders granting scale of Rs.1593-3020 only to first 2 persons in that 4 person and submitted for ratification of the Commissioner. But the same was regularized earlier to those persons. Hence, it is reasonable to grant scale of Rs.1595-3020 to the said conductor and the same may be submitted to the Commissioner. Hence, the Trust Board may resolved after discussions.

Admittedly, based on the above said resolution, the Executive Officer & Joint Commissioner, Endowments Department addressed a letter dated 12-3-1999 to the Commissioner of Endowments stating that the petitioner deserves to be extended the benefit of pay scale of Conductor at Rs.1595-3020 instead of
1375-2375 as he has already crossed the scale attached to the post of Conductor, and that no extra burden would be cast on the department if the benefit is extended, and that persons juniors to the petitioner, who are working in the same cadre were already sanctioned the scales of Conductor, and are enjoying the benefit. Despite the resolution and the letter addressed by the Devasthanam to the Commissioner, no reason is forthcoming from the 1st respondent as to why he had not taken any action in the matter.

The learned Standing Counsel for the Devasthanam and the learned Government Pleader for the 1st respondent are not present, and in the absence of any assistance from them, having regard to the facts and circumstances of the case, and the admissions made by the Devasthanam in its counter, I deem it appropriate to allow the writ petition with the following directions:

The Writ petition is allowed. The 1st respondent shall having regard to the resolution passed by the Trust Board and the provisions of Section 57 of Act No. 30/1987, re-fix the salary of the petitioner in the scale attached to the post of Conductor at Rs. 1595-3020, with effect from 31-10-1995 and pay the consequential benefits flowing from such re-fixation, within a period of three months from the date of receipt of a copy of this order. No costs.

_____

(N.V. RAMANA, J.)

Date: 23rd December, 2005.

GRK